

STATE SUPREME COURT UPHOLDS LOWER COURT'S FINDING.

Case Decided Applies Specifically to the Application of the Law to the Pennsylvania Railroad, but Decision Affects All Other Roads in the State.

PHILADELPHIA, Jan. 20.—The Supreme Court of Pennsylvania today declared that the two-cent passenger rate law passed by the Legislature of 1907 is unconstitutional so far as the Pennsylvania Railroad is concerned.

The decision applies specifically to the Pennsylvania Railroad because its appeal only was before the court. It applies generally, however, to all other roads in the State.

Chief Justice Mitchell wrote the opinion of the majority. Justices Felt, Ekin and Brown concurred. Separate dissenting opinions were written by Justices McCreary, Stewart and Potter.

The meat of Chief Justice Mitchell's opinion on behalf of the majority is found in the following paragraphs:

"The exact question to be determined on this appeal is not the general constitutionality of the act of 1907, but the right to enforce it against the appellee. The same clause in the Constitution that authorized its passage provides that such legislation shall do no injury to the corporations of any company whose charter is thereby altered. Would the provisions of the act of 1907 do injury to the corporations or the appellee?"

He finds it would and continues: "While the public has certain rights which in case of conflict with the rights of the corporation must be given up, the public service corporations are private property, organized and conducted for private corporate profit, and unless the reason given for their establishment is a businesslike way with a resulting loss, it is neither good business nor justice to make it more so because the loss came off profit on the part of the corporation. The reason given for the act is that it is a businesslike way with a resulting loss. The corporation is entitled to make a fair profit on every branch of its business subject to the limitation of its corporate charter. It cannot be forced, even though it is a loss, to make a loss."

Justice McCreary dissented. He said that the majority's decision is a "blatant declaration of the majority of the members of the Supreme Court, conceding the right of legislative supervision of rates of common carriers, but declining to pass upon the immunity of the plaintiff company from such supervision. The reason given for this, he says, is that the act is unconstitutional, even though it is a loss."

Justice Stewart dissented. He said that the majority's decision is a "blatant declaration of the majority of the members of the Supreme Court, conceding the right of legislative supervision of rates of common carriers, but declining to pass upon the immunity of the plaintiff company from such supervision. The reason given for this, he says, is that the act is unconstitutional, even though it is a loss."

Justice Potter dissented. He said that the majority's decision is a "blatant declaration of the majority of the members of the Supreme Court, conceding the right of legislative supervision of rates of common carriers, but declining to pass upon the immunity of the plaintiff company from such supervision. The reason given for this, he says, is that the act is unconstitutional, even though it is a loss."

Justice Felt dissented. He said that the majority's decision is a "blatant declaration of the majority of the members of the Supreme Court, conceding the right of legislative supervision of rates of common carriers, but declining to pass upon the immunity of the plaintiff company from such supervision. The reason given for this, he says, is that the act is unconstitutional, even though it is a loss."

Justice Ekin dissented. He said that the majority's decision is a "blatant declaration of the majority of the members of the Supreme Court, conceding the right of legislative supervision of rates of common carriers, but declining to pass upon the immunity of the plaintiff company from such supervision. The reason given for this, he says, is that the act is unconstitutional, even though it is a loss."

Justice Brown dissented. He said that the majority's decision is a "blatant declaration of the majority of the members of the Supreme Court, conceding the right of legislative supervision of rates of common carriers, but declining to pass upon the immunity of the plaintiff company from such supervision. The reason given for this, he says, is that the act is unconstitutional, even though it is a loss."

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THE REAL ESTATE MARKET

HENRY F. HORNSTADT BUYS A WEST END DWELLING.

The Ver Planck Estate Adds to Its Holdings in Thirty-fifth Street—The Uptown Talmud Torah Obtains Lease From the Supreme Court to Sell a Harlem Site.

Yesterday's realty news, though meagre enough, tended to confirm the current impression that the market is once more headed in the right direction. There were no forced sales in the Vesey street exchange and the budget of private sales indicated a better demand for private dwellings.

The building industry remained quiet, a favorable circumstance, owing to the plentiful supply of new housing in most sections. The realty loan situation was summed up as follows by an officer of the Title Guarantee and Trust Company: "Last week we sold more than ten times as many mortgages in New York as we sold the week before, and in Brooklyn the increase was a very substantial one, although not so large as in New York. There seems to be a tendency on the part of some borrowers to hold back under the impression that the rate of interest will fall. There have been a few inquiries from the savings banks for mortgages, but it is not probable that there will be a large demand from these institutions for mortgage loans."

"Withdrawals from the savings banks for investment have been fairly large and if hard times are coming there will be a drawdown later by depositors from necessity, and the banks will be of course endeavor to strengthen themselves against this contingency by withholding cash from permanent investments. The life insurance companies have been called on for loans on the part of an unprosperous degree. There is little likelihood of these loans being paid off soon. These are the funds which the life insurance companies usually put into mortgages. There is undoubtedly at present an opportunity for borrowers to obtain fair loans at the prevailing rates of interest and there is no reason to encourage postponing borrowing to a later date."

MAKE STANDARD OIL SUIT PAY.

State of Texas Leases Tank Cars Held to Railroads at \$200,000 a Year.

GALVESTON, Tex., Jan. 20.—Sixty-six tank cars of the United Tank Line, said to be a Standard Oil concern, have been leased by the State of Texas to two railroads to be used for transporting crude oil from the Standard Oil Company's wells in Oklahoma to the Security and other refineries in Texas, that now stand charged with violations of the State anti-trust laws. The sixty-six oil cars were seized by the State some weeks ago in order to force the Standard to accept service in the suits filed against it by the State Attorney-General to drive it out of the State. The Standard is unable to get service upon the Standard, the State decided to make the seized cars something, and they have been leased to the railroads for \$200 a car a month. The railroads furnish bond three times the value of the cars for their return to the State in good condition. At the end of the year for these cars, the State government doesn't care whether the Standard ever accepts service. The Standard's vessels are still loading oil out of the State and the Standard is in the State in violation of the anti-trust laws. The State is prepared to sue any ship that comes within the dead line.

No Agreement on Reciprocal Demurrage.

INDIANAPOLIS, Jan. 20.—High officials of the railroads traversing Indiana and manufacturers of Indiana shippers and manufacturers to-day to seek a compromise in the reciprocal demurrage case. No agreement was reached and the case will be fought out before the State Commission. The reciprocal demurrage case for each car held after the "free time" limit for unloading has expired. The shippers demand that they get reciprocal demurrage of \$1 per car per day. The railroads demand that they get reciprocal demurrage of \$1 per car per day. The case will be fought out before the State Commission.

TWO GAS CASES ARGUED.

One Involves Indirectly the Constitutionality of the Public Utilities Law.

ALBANY, Jan. 20.—In the Court of Appeals this afternoon was argued the appeal of the Saratoga Gas and Electric Light Company from a decision of the Appellate Division, third department, affirming an order of the former State Gas and Electricity Commission in reducing the price of gas and electricity in Saratoga Springs. This is the case which involves indirectly the constitutionality of the Public Service Commission act. Former Senator Edgar T. Bracken, who represented the Saratoga Gas and Electric Light Company, argued the case. He said that the Commission's order was arbitrary and capricious and that it violated the Constitution. The case will be argued before the Court of Appeals.

A KNICKBOCKER CANYASS

For Assents—Deposits Worth More Under Resumption Than Under Bankruptcy.

Forty canvassers were appointed by the combined Knickerbocker Trust Company and Knickerbocker Trust Company to lay the reorganization plan before those depositors who have not yet assented. The canvassers are to interview depositors in this city alone, each of them having one of forty districts into which the city has been divided for this purpose. A question as to the deposits of State institutions, particularly the insurance companies, was discussed yesterday. It was considered of importance to ascertain whether or not the deposits could be counted as legal assets of these State institutions in case the reorganization plan were adopted. The matter is one to be determined by the Attorney-General and the State Superintendent of Banks. The committee believes that the deposits should be appraised higher in case of resumption of business than otherwise. It is generally recognized, said Herbert L. Satterlee, that under a permanent receivership 50 per cent. of the account would be written off. Under the plan of reorganization, however, the remaining 50 per cent., which are deferred, would have at least a half value on the day of opening. This would make a total value of 75 per cent., as compared with 50 per cent. under a permanent receivership.

Decrease in Southern Earnings.

The Southern Railway statement for the second week in January, made public yesterday, shows gross earnings of \$825,054, as compared with \$1,056,680 the corresponding week of 1907. The decrease is \$231,626, or more than 20 per cent., and is rather larger than the decrease for the first week in January. It is noteworthy that the decrease in the month there had been no improvement in traffic in the territory covered by the system. For the period from July 1 to January 11 the Southern Railway shows gross earnings of \$31,200,395, an increase of \$859,192.

Seaboard Air Line Receivers.

WASHINGTON, Jan. 20.—An order appointing S. Davis Warfield of Baltimore and H. Laurence Williams of Richmond as receivers of the property of the Seaboard Air Line in this jurisdiction was today signed by Chief Justice Claiborne of the Supreme Court of the District of Columbia. Messrs. Warfield and Williams are receivers appointed by the Federal Court in Virginia in the proceedings at Richmond last month.

THE REAL ESTATE MARKET

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41-43 West 25th St. (Madison Square)

A modern (11 story) Mercantile Building in the new business district. Every convenience. Three fine floors (50x90) to let. Second and Third floors specially adapted for offices and show rooms, publishing or other high class business.

Top floor ideal for architects or other requiring exceptionally good light. Immediate possession. Illustrated folder and particulars on request. Inquire on premises or your own broker.

Phone 4980 Madison.

MORTON BUILDING,

110-116 NASSAU STREET

RENTS REASONABLE

Offices for rent, 1000 square feet will divide into suit tenant; all night elevator service. Frederick Zittel, Agent.

5-Story Building To Lease

1024 Street, near East River

Perfect light on all sides. Rent \$1000 per month. Apply Real Estate Co., 109 E. 14th St., N. Y.

REAL ESTATE FOR SALE.

GENTLEMAN'S Country Home, 90 acres, near depot; beautiful scenery; price \$40,000. FISCHER, East Hampton, Conn.

SELECT APARTMENTS.

ABOVE 14TH ST., WEST SIDE.

434 West 163d St.

Just east of Amsterdam Ave. 5 minutes from Subway, 16th St. and B'way. The best ever offered at the rental. They are handsomely appointed, embodying latest up to date improvements.

\$25-5 Rooms and Bath—\$25

Superintendent on premises.

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THE ADRIAN,

58 WEST 72D ST.—Corner.

Large light, bright rooms, tiled bath, butler's pantry, parlor, dining room, kitchen, etc. All surface lines convenient. Rent \$100. Superintendent on premises.

APARTMENT HOTELS.

1-SPRING reduction; one-half former price. Reduced to \$100 per month. Private bath; your choice. In the heart of the city. Call on J. H. KELLY, 100 West 14th St., near 9th Ave.

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High class furnished or unfurnished apartments. 2, 3 or 4 rooms. Modern and up to date rates. JAMES W. GREENE, Mgr.

REAL ESTATE FOR SALE—QUEENS

CALL FOR INFORMATION CONCERNING FORECLOSURE PLAN for home buying. We build you a cozy little home on a lot of 100x100 ft. or more. We have during your illness and need the house free and clear to your heirs if you should die. Call on HICKORY REALTY CO., 46 West 24th St.

LOTS IN CENTRAL PARK, KICKVILLE, Queens village.

Three acres, wooded, a beautiful view. KICKVILLE REALTY CO., Queens village.

WOODHAVEN lots for sale with all improvements.

\$1000 down, \$1000 monthly and no interest for two years. P. O. Box 8, Woodhaven, N. Y.

REAL ESTATE WANTED.

WANTED—At Tuxedo Park, good size home, ample grounds, etc. Particulars to WHITEHOUSE & PORTER, 35 5th Ave., N. Y.

SELECT APARTMENTS.

ABOVE 14TH ST., WEST SIDE.

SCHUYLER ARMS, 9th St. and Riverside Drive. 10 rooms and kitchenette, \$1,200 and \$1,300; reference required. F. G. SANFORD, Manager.

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On Improved New York City property at 5 to 5 1/2%. Sums \$500 to \$50,000.

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